



COMMONWEALTH of VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

PIEDMONT REGIONAL OFFICE
4949-A Cox Road
Glen Allen, Virginia 23060
(804) 527-5020
Fax (804) 527-5106
www.deq.state.va.us

Robert G. Burnley
Director

Gerard Seeley, Jr.
Piedmont Regional Director

**STATE WATER CONTROL BOARD ENFORCEMENT ACTION
SPECIAL ORDER BY CONSENT
ISSUED TO
TOWN OF SURRY
Permit No. VA0061646**

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 10.1-1185 and 62.1-44.15(8a) and (8d), between the State Water Control Board and the Town of Surry, for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Special Order.
6. "Town" means the Town of Surry, located in Surry County Virginia.
7. "Facility" means the Town's wastewater treatment plant located in Surry County, Virginia.

8. “PRO” means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
9. “Permit” means VPDES Permit No. VA0061646, which became effective February 1, 2000, and expires February 1, 2005.
10. “NOV” means notice of violation.
11. “DMR” means Discharge monitoring Report.

SECTION C: Findings of Fact and Conclusions of Law

1. The Town owns and operates a wastewater treatment facility in Surry County, Virginia. This Facility is the subject of VPDES Permit No. VA0061646, which allows the Town to discharge treated wastewater into an unnamed tributary of Dark Swamp in strict compliance with terms, limitations and requirements outlined in the permit.
2. The Town is required by the Permit to submit a plan explaining how the Facility will comply with total recoverable copper limits in the Permit. The Permit allowed the Town two years to develop the plan (i.e. until February 2002) and four years to meet final limits for total recoverable copper.
3. The Department issued an NOV to the Town on February 26, 2003, citing them for failure to submit plans and quarterly progress reports relating to compliance with the final limits and monitoring requirements for total recoverable copper.
4. The Department issued an NOV to the Town on March 27, 2003, citing them for failing to submit DMRs for the January and February 2003 monitoring periods. The Town was also cited for failing to submit the third quarterly report relating to compliance with the final limits and monitoring requirements for total recoverable copper.
5. On April 23, 2003, the Department met with the Town to discuss the two NOVs and copper issues at the Facility. The Town has completed some projects at the Facility to enable lower copper concentrations in its discharge. The Town agreed to hire a consultant and move forward with copper sampling and a corrective action plan for compliance with final effluent limits for copper if sampling showed that the Facility is not currently able to consistently comply with copper effluent limits.
6. The Town submitted copper sampling results taken from April 27, 2001 through September 5, 2003. Although there is some improvement, the data indicates that steps taken so far to remove copper from the Facility’s effluent are insufficient to ensure consistent compliance with final permitted effluent limits.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders the Town, and the Town agrees, to perform the actions described in Appendix A of this Order and agrees to comply with the interim effluent limits specified in Appendix B which are attached hereto and incorporated herein by reference. In addition, the Board orders the Town, and the Town voluntarily agrees, to pay a civil charge of \$1,400 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. The payment shall note that it is being made pursuant to this Order and shall note the Federal Identification Number for the Town. Payment shall be by check, certified check, money order, or cashier's check payable to ATreasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of the Town, for good cause shown by the Town, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violations issued to the Town by DEQ on February 26 and March 27, of 2003. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, the Town admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. The Town consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The Town declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or

law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by the Town to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The Town shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The Town shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. The Town shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the Town intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and the Town. Notwithstanding the foregoing, the Town agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until the Town petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order. Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve Town from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, the Town voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of June 21, 2004.

Gerald Feely Jr. (for)
Robert G. Burnley, Director
Department of Environmental Quality

The Town voluntarily agrees to the issuance of this Order.

By: John H. Holt Mayor
Date: 3-16-04

Commonwealth of Virginia

~~City~~/County of Surry

The foregoing document was signed and acknowledged before me this 16th day of March, 2004, by John H. Holt, Mayor, who is
(name)

Mayor of the Town, on behalf of the Town.
(title)

Melby L. Richmond
Notary Public

My commission expires: March 31, 2004

APPENDIX A

The Town shall:

1. **Within 135 days of the issuance of this Order**, submit to the Department a corrective action plan (CAP) and implementation schedule for improvements to the Facility that will enable compliance with the permit limits for copper. The plan and schedule, upon Department approval, shall be incorporated into and become an enforceable part of this Order.
2. On or before January 1, 2004, submit to the Department formal written Standard Operating Procedures to assure compliance with the reporting requirements of the VPDES permit.
3. Operate the Facility in a manner that ensures that it produces the best quality effluent of which it is capable during the implementation of the CAP.

Pursuant to this Order communications regarding this Order, and its requirements shall be addressed as follows:

Frank Lupini
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060

The Town shall confirm, in writing, completion of the Order requirements to the above address **within five (5) days of completion**.

APPENDIX B

Interim copper limitations

During the period beginning with the effective date of this Order and lasting until the CAP is implemented in accordance with the approved schedule referenced in paragraph 1 of Appendix A, discharges from the facility shall be limited and monitored by the Town in accordance with VPDES Permit VA0061646, except as specified below:

	Monthly Average	Weekly Average
Total Copper	16 :g/L	16 :g/L